

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PERRY STREET SOFTWARE, INC.,

Plaintiff-Counterclaim Defendant,

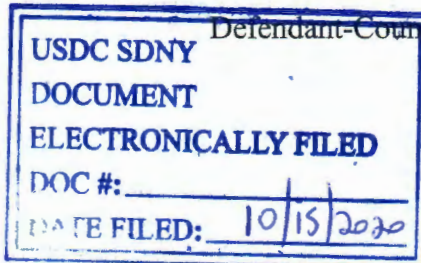
v.

JEDI TECHNOLOGIES, INC.

Defendant-Counterclaim Plaintiff.

Case No. 1:20-cv-04539(CM)

**NOTICE OF AGREED MOTION TO
TEMPORARILY STAY CASE AND AR-
BITRATION PENDING RESOLUTION
OF PERRY'S MOTION TO COMPEL
ARBITRATION AND STAY THE CASE,
AND JEDI'S MOTION FOR A PRELIMI-
NARY INJUNCTION ENJOINING OR
STAYING ARBITRATION**



MEMO ENCLOSED

PLEASE TAKE NOTICE that Plaintiff-Counterclaim Defendant Perry Street Software, Inc. ("Perry") and Defendant-Counterclaim Plaintiff Jedi Technologies, Inc. ("Jedi") (collectively, the "Parties"), by and through undersigned counsel, jointly request and move the Court, before the Honorable Colleen McMahon, at the United States Courthouse for the Southern District of New York located at 500 Pearl Street, New York, NY 10007, at a date and time to be determined by the Court, for an Order temporarily staying this case and the arbitration styled *Perry Street Software, Inc. v. Jedi Technologies, Inc.*, AAA Case Number 01-20-0014-6921 (hereinafter, the "Arbitration"). In support of this Agreed Motion, the Parties state as follows:

1. On August 31, 2020, Perry filed its Demand for Arbitration in the Arbitration.
2. On September 18, 2020, Jedi filed a Motion for a Preliminary Injunction Enjoining or Staying Arbitration ("Motion for a Preliminary Injunction"). *See* Dkt. Nos. 34-36. This motion is fully briefed. *See* Dkt. No. 40 (Perry's Resp.); Dkt. No. 44 (Jedi's Reply).

10/15/2020
This motion is MOST
in light of yesterday's
order

Remove from list
per motion

3. On September 21, 2020, Perry filed a Motion to Compel Arbitration and Stay the Case (“Motion to Compel Arbitration”). Dkt. Nos. 37-38. This motion is also fully briefed. Dkt. No. 41 (Jedi’s Resp.); Dkt. No. 47 (Perry’s Reply).

4. On October 8, 2020, Perry filed a Motion to Stay Case Pending Resolution of its Motion to Compel Arbitration and Stay the Case. *See* Dkt. No. 42-43. The Parties do not oppose a temporary stay of this litigation and the Arbitration pending the Court’s resolution of Perry’s Motion to Compel Arbitration (Dkt. No. 37) and Jedi’s Motion for a Preliminary Injunction (Dkt. No. 34).

5. The Court has the authority to temporarily stay this case and the Arbitration until it has determined whether the Parties’ patent infringement dispute is arbitrable. *See, e.g., Dylan 140 LLC v. Figueroa*, 2019 WL 2235884, at *1 (S.D.N.Y. May 14, 2019) (“Courts in this district have routinely issues restraining orders to stay arbitration proceedings on a temporary basis [while a determination of arbitrability is pending.]”); *Range v. 480-486 Broadway, LLC*, 810 F.3d 108, 113 (2d Cir. 2015) (“[A] district court possesses inherent authority to control the disposition of the causes on its docket and has power to stay an action as an incident of that authority[.]”).


6. The Parties agree that a temporary stay of the Arbitration and this case pending the Court’s resolution of Jedi’s Motion for a Preliminary Injunction (Dkt. Nos. 34-36) and Perry’s Motion to Compel Arbitration (Dkt. Nos. 37-38), will save the Parties and Court time and resources.

7. To be clear, the Parties presently seek a temporary stay of the Arbitration and this case only until the Court has ruled on the Parties’ respective motions regarding the arbitrability of the Parties’ patent infringement dispute. The Parties do not presently seek or agree to a stay of this case pending any subsequent rehearing request or appeal of the Court’s decision on the Parties’

motions. Either Party would remain free to move for a further stay if that Party's motion regarding arbitrability is denied.

For the foregoing reasons, the Parties respectfully request that the Court enter an Order temporarily staying this case and the Arbitration until it has ruled on Jedi's Motion for a Preliminary Injunction (Dkt. Nos. 34-36) and Perry's Motion to Compel Arbitration (Dkt. Nos. 37-38).

Respectfully submitted,



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Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 14, 2020 the foregoing:

**NOTICE OF AGREED MOTION TO TEMPORARILY STAY CASE AND
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was filed with the Clerk of Court using the CM/ECF system, which will then send a notification
of such filing to the following counsel of record:

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